

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

METAL EXCHANGE CORPORATION)
)
Plaintiff,)
)
vs.) Case No. 4:12-cv-01804-JAR
)
)
METAL NETWORKS, LLC)
)
Defendant.)
)
)

CONSENT INJUNCTION & ORDER

WHEREAS, Plaintiff Metal Exchange Corporation, ("Metal Exchange"), commenced this action against Defendant Metal Networks, LLC ("Metal Networks"), for, *inter alia*, trademark infringement, false designation of origin and unfair competition, and dilution; and

WHEREAS, Defendant Metal Networks represents that: (i) it will, no later than sixty (60) days following the Court's entry of this Order, cease any and all use of THE METAL EXCHANGE, METAL EXCHANGE, THEMETALEX, and any and all confusingly similar variations thereof; (ii) it will, no later than sixty (60) days following the Court's entry of this Order, change its mark to TMAX: TOTAL MATERIALS EXCHANGE, TMAX, TOTAL MATERIALS EXCHANGE and/or another mark different from THE METAL EXCHANGE, METAL EXCHANGE, THEMETALEX, and any and all confusingly similar variations thereof; (iii) it agrees to and will transfer, no later than sixty (60) days following the Court's entry of this Order and at its own cost and expense, the WWW.THEMETALEX.COM domain name to Plaintiff Metal Exchange; and (iv) it has conferred with and had the opportunity to confer with legal counsel regarding this matter;

WHEREAS, Plaintiff Metal Exchange and Defendant Metal Networks have agreed to amicably resolve this dispute based upon the agreed-to terms and provisions of the Settlement Agreement between them, and, further upon Defendant Metal Networks' representations and agreement to the entry of a Consent Injunction in the form set forth herein;

NOW THEREFORE, upon consent of the parties hereto, it is hereby **ORDERED**
ADJUDGED AND DECREED as follows:

1. Upon the expiration of a sixty (60) day period beginning on, including, and running from the date of this Order, Defendant Metal Networks, LLC and its respective affiliates, subsidiaries, related companies, and each of their employees, partners, officers, directors, agents, representatives, successors, heirs, and assigns, and all persons in active concert or participation with any of them, are hereby permanently enjoined from, directly or indirectly, using THE METAL EXCHANGE, METAL EXCHANGE, THEMETALEX and/or any confusingly similar variations thereof, in any manner or form, or any other reproduction, counterfeit, copy, or colorable imitation of such mark, either alone or in combination with any other designation, on or in connection with any advertising, marketing, promoting, offer for sale, or sale of Defendant Metal Networks' services and/or goods (including, but not limited to, on any websites, social media sites, business sites, electronic commerce sites, communications, or the like); from otherwise infringing and/or diluting the distinctive nature of THE METAL EXCHANGE and METAL EXCHANGE; and from otherwise competing unfairly with Metal Exchange;
2. Defendant Metal Networks shall have sixty (60) days to destroy and/or obliterate any and all labels, signs, brochures, advertisements and other items in its possession, or under their control, upon which appear or reflect THE METAL EXCHANGE, METAL EXCHANGE,

THEMETALEX, and/or any confusingly similar variations thereof, in any manner or form, or any other reproduction, counterfeit, copy, or colorable imitation thereof, either alone or in combination with any designation, and all plates, molds, matrices and other means of making the same, and during this sixty (60) day period, Metal Networks agrees to and will include a disclaimer on its website(s) indicating that it is not affiliated in any way with Plaintiff Metal Exchange, and prior to the expiration of this sixty (60) day period, Defendant Metal Networks agrees to and will transfer, at its own cost and expense, the WWW.THEMETALEX.COM domain name to Plaintiff Metal Exchange; and

3. That Plaintiff Metal Exchange's Complaint against the Defendant Metal Networks is hereby dismissed with prejudice, with each party to bear its own attorneys' fees and costs. However, the Court shall retain jurisdiction over Defendant Metal Networks to the extent necessary to enforce this Consent Injunction.

METAL EXCHANGE CORPORATION

By: Edward O. Merz
Name: EDWARD O. MERZ
Title: EVP & CFO
Date: 4/8/13

METAL NETWORKS LLC

By: Jeremy Chapman
Name: Jeremy Chapman
Title: Manager
Date: 4/3/2013

SO ORDERED:

John A. Ross
John A. Ross, United States District Court Judge

4/15/2013
Date